

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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LIBERTY MUTUAL FIRE INSURANCE COMPANY,

Plaintiff,

Civil Action No.  
21 Civ. 1931 (JMF)(OTW)

-against-

JDS CONSTRUCTION GROUP LLC, JDS  
CONSTRUCTION SERVICES LLC, 111 WEST  
57TH DEVELOPER LLC, PMG WEST 57TH STREET  
LLC, 111 CONSTRUCTION MANAGER LLC, and  
111 WEST 57TH PROPERTY OWNER LLC,

**STIPULATION  
AND ORDER**

Defendants.  
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**IT IS HEREBY STIPULATED AND AGREED**, by and between the  
undersigned, as follows:

1. This Stipulation is being entered into to facilitate the production of “more particularized evidence concerning the citizenship of 111 West 57th Property Owner LLC pursuant to a confidentiality agreement to be so ordered” as set forth in the Order of the Court, dated July 8, 2021.
2. Defendants may mark any documents produced pursuant to the Order of July 8, 2021 as confidential by stamping each such page as “HIGHLY CONFIDENTIAL.” By marking such documents as “HIGHLY CONFIDENTIAL”, defendants are representing that they reasonably and in good faith believe that the material should be confidential.
3. With respect to any such documents marked as “HIGHLY CONFIDENTIAL”, plaintiff agrees that such documents are for attorneys-eyes only, subject to further court order. As such, subject to further court order, such documents shall not be furnished, shown, or disclosed to any person or entity except to attorneys and employees of Jaffe

& Asher LLP and in-house attorneys (and their paralegals) for plaintiff involved in the handling of this matter, who shall be provided a copy of this Stipulation and Order and shall be bound to it.


4. In the event that plaintiff intends to file any document marked HIGHLY CONFIDENTIAL, or file any pleading, brief or memorandum which reproduces, paraphrases, or disclosing information marked HIGHLY CONFIDENTIAL, plaintiff agrees to notify defendants forty-eight (48) hours before filing any such document so that defendants may make a motion to seal. Plaintiff further agrees not to publicly file any such document until the Court renders a decision on any motion to seal.

5. Nothing herein shall preclude or waive the right of plaintiff to seek further court order allowing more expansive use or distribution of such documents; nor shall this Stipulation and Order be used to support an argument or inference that (1) such documents are actually confidential or should be protected from further disclosure or use; or (2) to shift the burdens in avoiding or limiting disclosure of such documents.


6. This Stipulation shall continue to be binding after the conclusion of this litigation.

Dated: White Plains, New York  
July 21, 2021

JAFFE & ASHER LLP

By:   
Marshall T. Potashner, Esq.  
Attorneys for Plaintiff  
LIBERTY MUTUAL FIRE INSURANCE  
COMPANY  
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White Plains, New York 10601

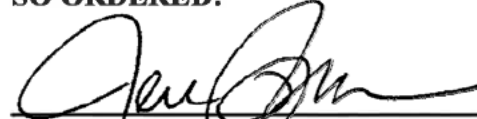
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& MCKENNA LLP

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WEST 57TH DEVELOPER LLC, PMG WEST  
57TH STREET LLC, 111 CONSTRUCTION

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MANAGER LLC, and 111 WEST 57TH  
PROPERTY OWNER LLC  
1350 Avenue of the Americas, 25<sup>th</sup> Floor  
New York, New York 10019  
(212) 584-1890

**SO ORDERED:**

  
**Hon. Jesse M. Furman, U.S.D.J.**

July 21, 2021

This stipulation binds the parties to treat as confidential the documents so classified. This Court, however, has not reviewed the documents referenced herein; therefore, by so ordering this stipulation, the Court makes no finding as to whether the documents are confidential. That finding will be made, if ever, upon a document-by-document review pursuant to the procedures set forth in the Court's Individual Rules and Practices and subject to the presumption in favor of public access to "judicial documents." *See generally* *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). To that end, the Court does not "so order" any provision to the extent that it purports to authorize the parties to file documents under seal without a prior court order. *See New York ex rel. Khurana v. Spherion Corp.*, No. 15-CV-6605 (JMF), 2019 WL 3294170 (S.D.N.Y. July 19, 2019).